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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

HANNAH AHERN,

Plaintiff,

v.

ERIK KAMMERER, CITY OF PORTLAND;
and JOHN DOES 1-5.

Defendants.

Case No. 3:21-cv-00561-YY

AMENDED COMPLAINT

Civil Rights Action (42 U.S.C. § 1983); False
Arrest and Battery (State Tort)

JURY TRIAL DEMANDED

Ms. Hannah Ahern, Plaintiff, initiates this suit because Defendants unlawfully detained her at a counter-demonstration against white supremacist groups that were using the City of Portland as a staging ground for recruitment and later attacks on other cities. Detective Erik Kammerer, Defendant, fabricated evidence to effectuate an arrest of Ms. Ahern after she spat in the general direction of an approaching van of riot police. Video evidence shows that Defendant Kammerer knew that he did not have probable cause; he merely wanted to punish Ms. Ahern for showing contempt for the riot police. This is in keeping a pattern and practice of the City of Portland,

Defendant, of punishing groups that express sentiments in support of police accountability or against white supremacy,

JURISDICTION

1. This court has jurisdiction over the subject matter of this Complaint under 42 U.S.C. § 1983, and 28 U.S.C. §§ 1331, 1343(a)(3), (4). The court has supplemental jurisdiction over the State tort claims pursuant to 28 U.S. Code § 1367(a).

VENUE

2. Venue is proper within the District of Oregon because all of the events giving rise to this claim occurred in this judicial district, and all defendants reside in this judicial district. 28 U.S.C. § 1391(b). The acts and practices alleged herein occurred in Portland, Multnomah County, Oregon.

PARTIES

3. Hannah Ahern, Plaintiff, is a citizen of the State of Oregon.

4. Defendant Erik Kammerer is a detective with the Portland Police Bureau, and at all material times was acting under color of law. He is sued in his personal capacity.

5. Defendant City of Portland (hereinafter, “City”) is a political subdivision of the State of Oregon with the capacity to sue and be sued. The City runs the Portland Police Bureau.

6. Plaintiff does not know the names of Defendants John Does 1-5, and thus sues them under fictitious names. John Does 1-5 are any City employees who exercised command responsibility over, conspired with, aided and abetted subordinates, and/or directly or indirectly participated in Plaintiff’s deprivation of civil rights as hereinafter alleged, or furthered the pattern and practice of unconstitutional conduct hereinafter alleged.

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FACTUAL ALLEGATIONS

I. Introduction

7. On August 17, 2019, the Proud Boys, a right-wing extremist group with ties to white supremacist and neo-fascist groups, staged a rally in downtown Portland. The same day, a large group of Portland residents showed up to counter the Proud Boys protest—many of whom came to the “Be the Spectacle” counterprotest, organized by Popular Mobilization, with the goal of dressing up in absurd and spectacular costumes to thwart Proud Boys photo opportunities and drown out their hate speech with protest art, dance, and music. Other sponsors and supporters of August 17 counterprotests included community groups as well as religious and political figures.

8. Ms. Ahern was at work for most of the day’s events. After work, on her way to her bus home, she decided to take a longer route to check out the public protest. What she saw disgusted her: Portland Police Bureau (“PPB”) riot police had decided to target the counter-demonstrators while clearing the way for the Proud Boys to stage a photo opportunity for themselves on Portland’s bridgeways. She had also just witnessed PPB violently arrest someone who committed no crime, but defied PPB’s authority by twerking on a crosswalk.

9. Ms. Ahern’s disgust elicited one solitary act of defiance: while walking away from the scene, as she was instructed to do by PPB, she spat in the general direction of an approaching police van with officers in riot gear standing along the sides of the van.

10. Because Ms. Ahern dared to demonstrate her visceral disgust with what she saw of PPB’s conduct that day, Defendant Kammerer targeted Ms. Ahern for arrest. To do so, Defendant Kammerer falsified his observations of Ms. Ahern to both the arresting officers—who blindly followed his directives and violently arrested her—and in his police reports, thus leading to a criminal charge of Disorderly Conduct II.

11. The State of Oregon prosecuted Ms. Ahern with the charge of Disorderly Conduct II. The charging information cited her “unlawful intent” to “cause public inconvenience, annoyance and alarm, obstruct vehicular traffic on a public way, contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Oregon.” The State ultimately dismissed her case after 188 days.

II. Who are the Proud Boys, and what were they doing in Portland on August 17, 2019?

12. The Proud Boys are a bigoted organization intent on asserting its agenda with violence in the streets. This violence is used to promote their brand of “western chauvinism,” which is a rebranding of White Nationalist and xenophobic rhetoric. The Proud Boys have participated in and provided security for various right-wing events in Portland in the past. Despite the stated objective of these rallies being to stoke violence, Defendants have treated the Proud Boys with softer treatment while brutalizing and arresting counter-demonstrators to their events.

13. In a June 30, 2019, tweet, Biggs implored his followers and future attendees of his event to “Get a gun. But [sic] ammo. Get your gun license. Get training. Practice as much as you can and be ready because the left isn’t playing anymore and neither should we[.]”

14. Despite this wealth of forewarning that the Proud Boys would be engaging in violence, destruction, and terrorism on August 17, 2019, the Portland Police Bureau followed their customary strategy of targeting leftist counter-demonstrators for arrest and force.

III. Protests in Portland, Oregon: October 2016 to August 17, 2019.

15. In the months and years leading to Ms. Ahern’s arrest on August 17, 2019, PPB had repeatedly and consistently used disproportionate force and unlawful tactics against leftist, anti-Trump and/or police accountability protesters.

16. On October 12, 2016, then-Portland Mayor Charlie Hales, with a few months left in his administration, was negotiating a new collective bargaining agreement with the Portland Police Association (PPA), the bargaining union for Portland Police Bureau rank and file members. After a closed door vote on the collective bargaining agreement, PPB, along with the Multnomah County Sheriff's Office, forcefully ejected protesters from City Hall. The Compliance Officer and Community Liaison (COCL), a group that monitors police use of force in Portland, found that the City inadequately trained its officers in de-escalation, and used excessive force on October 12, 2016.

17. On November 10th-12th, 2016, over 1,000 peaceful anti-Trump protestors were subjected to force *en masse*, including pepper spray, flash bang grenades, pepper balls, bean bag rounds, tear gas, as well as mass arrest.¹

18. On January 20, 2017, hundreds of anti-Trump protestors were again subjected to use of force *en masse*. PPB fired tear gas, rubber bullets, pepper balls, and other explosives into a crowd of peaceful protestors.²

19. On February 16, 2017, hundreds gathered for a vigil and march to demand police accountability for Quanice Hayes, a 17-year-old who had been killed by PPB the week before. That vigil and march was watched and met by riot-gear-clad PPB officers.³

¹ Alex Milan Tracy, *Portland Anti-Trump 'Riot' Sees Dozens Arrested, Clashes With Police*, November 11, 2016, <https://www.nbcnews.com/news/us-news/portland-anti-trump-riot-sees-dozens-arrested-clashes-police-n682411>.

² Doug Brown, *Police Blasted and Tear Gassed an Inauguration Day Protest*, Portland Mercury, January 25, 2017, <https://www.portlandmercury.com/news/2017/01/25/18814554/police-blasted-and-tear-gassed-an-inauguration-day-protest>.

³ Doug Brown, *A Crowd of Hundreds Marches to Demand Justice in Quanice Hayes Killing*, Portland Mercury, February 16, 2017, <https://www.portlandmercury.com/blogtown/2017/02/16/18851789/a-crowd-of-hundreds-marches-to-demand-justice-in-quanice-hayes-killing>.

20. On February 20, 2017, anti-Trump protesters held a “Not My President’s Day” rally. PPB rushed a non-violent crowd, tackling and pushing people to the ground, injuring several protesters and forcefully arresting 13 people for standing in the street. Mayor Ted Wheeler decried the lack of police “tactics that deescalate tensions” and called PPB’s actions a “mistake.”⁴

21. In contrast, when members of the group Patriot Prayer convened a rally on April 29, 2017, PPB did not use these harsh crowd control tactics on them, despite their flagrant displays of weapons. The members of this rally were then provided TriMet buses by the City and given an escort back to the march’s starting point, while three counter-protesters were arrested.⁵

22. On May 1, 2017, once more PPB used overbroad crowd control tactics to squash a protest lead by leftist groups. These groups first rallied then marched in the streets. The police declared the entire assembly unlawful within an hour after the march began, purportedly because of a few objects thrown at the back of the march. Owing to the lack of particularity to the order, many peaceful protesters were confused about why or whether the entire march was being stopped. PPB then began launching explosives at the crowd. This tumultuous conduct then spiraled into additional violence and property damage.⁶

23. On June 4, 2017, after Patriot Prayer decided to hold a rally a week after Jeremy Christian, a Patriot Prayer rally participant, murdered two people and seriously injured another

⁴ Doug Brown, *Mayor Ted Wheeler: Monday's Police Response To Trump Protest a "Mistake"*, Portland Mercury, February 21, 2017, <https://www.portlandmercury.com/blogtown/2017/02/21/18856914/mayor-ted-wheeler-mondays-police-response-to-trump-protest-a-mistake>.

⁵ Doug Brown, *Photos & Video: Saturday's Right Wing March, Left Wing Protest in Montavilla*, Portland Mercury, April 29, 2017, <https://www.portlandmercury.com/blogtown/2017/04/29/18983985/photos-and-video-saturdays-right-wing-march-left-wing-protest-in-montavilla>.

⁶ Doug Brown, *Civil Rights Groups Criticize "Disproportionate and Dangerous" Police Response on May Day*, Portland Mercury, May 10, 2017, <https://www.portlandmercury.com/blogtown/2017/05/10/19004396/civil-rights-groups-criticize-disproportionate-and-dangerous-police-response-on-may-day>.

on a MAX train in Portland after harassing and threatening two teenage girls because he believed they were Muslim, PPB targeted Patriot Prayer's counter-demonstrators for violence and mass arrest. The City Auditor Independent Police Review created a report about the actions of PPB on June 4.⁷ The report concluded that, without sufficient documentation of the legal justification, PPB detained a group of nearly 400 counter protesters and journalists without prior warning, forcing the individuals to show their identification and submit to being photographed—without a policy justification for doing so—before being released. At the same time, PPB allowed the right-wing demonstrators to freely leave. Protests with similar dynamics—right-wing protest but PPB violence directed at counter-demonstrators—continued through the Summer of 2017.

24. The Summer of 2018 was also marked by right-wing and PPB violence against counter-demonstrators. On August 4, 2018, using explosives called Aerial Distraction Devices launched from 40 mm guns, PPB cleared a street adjacent to a Patriot Prayer rally being held on the Tom McCall Waterfront Park, hospitalizing three and severely injuring one counter-protester in the head.⁸ Patriot Prayer and the Proud Boys had refused to follow even the loosest restrictions placed on them by PPB but were never targeted for arrest. That day, PPB also discovered several right-wing militiamen staging a sniper post with long guns on a parking lot rooftop adjacent to the counter-demonstrators, but did not detain these militiamen or inform the public of this. Instead, then-Chief of Police Danielle Outlaw went on a right-wing radio talk show to call the counter-protesters “whiners” and gloated that PPB had “kicked [their] butt.”⁹

⁷ Portland City Auditor Independent Police Review, *POLICY REVIEW: Portland Police Bureau can improve its approach to crowd control during street protests*, May 2018, available at <https://www.portlandoregon.gov/ipr/article/686119>.

⁸ Jim Ryan, Shane Dixon Kavanaugh, Sarah Verschoor, *At least 3 hospitalized after Saturday protest; police chief defends tactics*, The Oregonian (August 6, 2018), available at https://www.oregonlive.com/portland/2018/08/portland_police_chief_proteste.html.

⁹ Katie Shepherd, *Portland Police Chief Says Protesters Went Off to “Whine And Complain” Last Week Because Officers “Kicked Your Butt”*, Willamette Week (August 15, 2018), available at

25. Patriot Prayer and the Proud Boys' activities continued even outside of protest events. After holding a "law and order" rally on October 13, 2018, Patriot Prayer and the Proud Boys started brawls outside of Kelly's Olympian, injuring many.¹⁰

26. Patriot Prayer and the Proud Boys faced little police opposition. In part, this could be attributable to some PPB member's belief that the right-wing protesters are "more mainstream."¹¹ In other part, this may be attributable to PPB's reliance on close connections to right-wing agitators to target antifascist protesters as recent reporting has discovered.¹² Older reporting also shows that PPB had a close relationship with Joey Gibson.¹³

27. Patriot Prayer's activities were finally curtailed after its ringleader Joey Gibson faced felony charges following his and his follower's assault on the Portland cidery Cider Riot on May 1, 2019. However, the Proud Boys continued to organize unmitigated. This culminated into the events of August 17, 2019.

IV. August 17, 2019

28. Ahead of the events that day, the City and Multnomah County closed the bridges across the Willamette River. The Proud Boys had assembled on the east side of the river, by the

<https://www.wweek.com/news/courts/2018/08/15/portland-police-chief-says-protesters-went-off-to-whine-and-complain-last-week-because-officers-kicked-your-butt/>.

¹⁰ Shane Dixon Kavanaugh, *Bear spray, bloody brawls at Patriot Prayer 'law and order' march in Portland*, The Oregonian (January 29, 2019), available at https://www.oregonlive.com/portland/2018/10/patriot_prayer_flash_march_cal.html

¹¹ Katie Shepherd, *Portland Police Saw Right-Wing Protesters as "Much More Mainstream" Than Leftist Ones*, Willamette Week (June 27, 2018) available at <https://www.wweek.com/news/courts/2018/06/27/portland-police-saw-right-wing-protesters-as-much-more-mainstream-than-leftist-ones/>.

¹² The Associated Press, *FBI enlisted Proud Boys leader to inform on antifa, lawyer says*, The Oregonian (March 30, 2021), available at <https://www.oregonlive.com/nation/2021/03/fbi-enlisted-proud-boys-leader-to-inform-on-antifa-lawyer-says.html>.

¹³ Katie Shepherd, *Texts Between Portland Police and Patriot Prayer Ringleader Joey Gibson Show Warm Exchange*, Willamette Week (February 14, 2019), available at <https://www.wweek.com/news/courts/2019/02/14/texts-between-portland-police-and-patriot-prayer-ringleader-joey-gibson-show-warm-exchange/>.

Morrison Bridge, while counter-demonstrators gathered on the west side in the parks adjacent to the Multnomah County Justice Center. Nevertheless, Proud Boys made it across the river with the consent of the Portland Police Bureau.

29. The Proud Boys marched on the west side of the Willamette River. Despite having closed the Hawthorne Bridge to the community, the City opened it for the Proud Boys to march across.

30. The picture taken of the Proud Boys on the Hawthorne Bridge shows them gleeful, having achieved their goal of wasting city resources.¹⁴ See Figure 1. Several of the people depicted in this photo later became key figures in the Capitol Riots on January 6, 2021.¹⁵



¹⁴ Andy Campbell, *Proud Boys Leader Admits Their Rallies Are For Fighting And Wasting Money*, The Huffington Post (August 22, 2019), available at https://www.huffpost.com/entry/proud-boys-rallies-portland_n_5d5e9882e4b0dfcbd4893ee5

¹⁵ Doha Madani and Pete Williams, *Proud Boys organizer Joe Biggs charged in Capitol riot*, NBC News (January 20, 2021), available at <https://www.nbcnews.com/news/us-news/proud-boys-organizer-joe-biggs-charged-capitol-riot-n1254999>.

Figure 1. Photograph of Proud Boys crossing the Hawthorne Bridge.¹⁶

31. The Proud Boys and their associates in Patriot Prayer and American Guard, the latter a notable “hardcore white supremacist” group,¹⁷ made repeated incursions back across the bridge to instigate fights. One such fracas happened on the Morrison Bridge offramp. An American Guard bus got stuck on the offramp. Driving by, taunting, and launching projectiles at the crowd is a tactic of right-wing extremists in Portland, as one recent example from August 2020 provides.¹⁸ A fracas occurred when American Guard members began taunting the crowd. Members of American Guard opened their bus door and swung a hammer at the people trying to make them leave. Ultimately, no member of American Guard was charged with a crime, but the people who defended themselves from their attack were arrested and charged.

32. The cumulative effect of PPB’s policy and pattern of overt permissiveness with Proud Boys and their adjacent groups and harsh repression and punishment of their counter-demonstrators created the conditions that Ms. Ahern faced on August 17, 2019.

V. Ahern crosses the street at the direction of PPB and gets arrested.

33. Ms. Ahern was aware of the Proud Boys rally on August 17, 2019, and, like any Portlander of good conscience, she opposed their presence. However, she also had work that morning.

34. At or around 2:00 pm, Ms. Ahern left work. She walked towards where she heard commotion and happened upon the scene at SW Oak and SW 3rd Ave. She witnessed a femme-presenting person

¹⁶ Noah Berge, Associated Press, Photograph of Proud Boys marching across Hawthorne Bridge on August 17, 2019, in *Proud Boys organizer arrested in Florida over riot at Capitol*, Politico (January 21, 2021) available at <https://www.politico.com/news/2021/01/21/proud-boys-organizer-arrested-florida-461022>.

¹⁷ Anti-Defamation League, Behind The American Guard: Hardcore White Supremacists, ADL (March 30, 2017) available at <https://www.adl.org/blog/behind-the-american-guard-hardcore-white-supremacists>.

¹⁸ Isaac Stanley-Becker, Joshua Partlow, Carissa Wolf, *Luxury cars, MAGA flags and Facebook invites: How an unknown Idaho family organized the Portland rally that turned deadly*, The Washington Post (September 21, 2020), available at https://www.washingtonpost.com/politics/idaho-family-portland-trump-rally/2020/09/21/246ef878-f2e5-11ea-b796-2dd09962649c_story.html.

get arrested for “twerking,” a type of dance. Several officers pinned this person to the ground and directed the on-lookers to not interfere with the arrest. *See* Figure 2. A synchronized video from different angles illustrates what occurred next.¹⁹

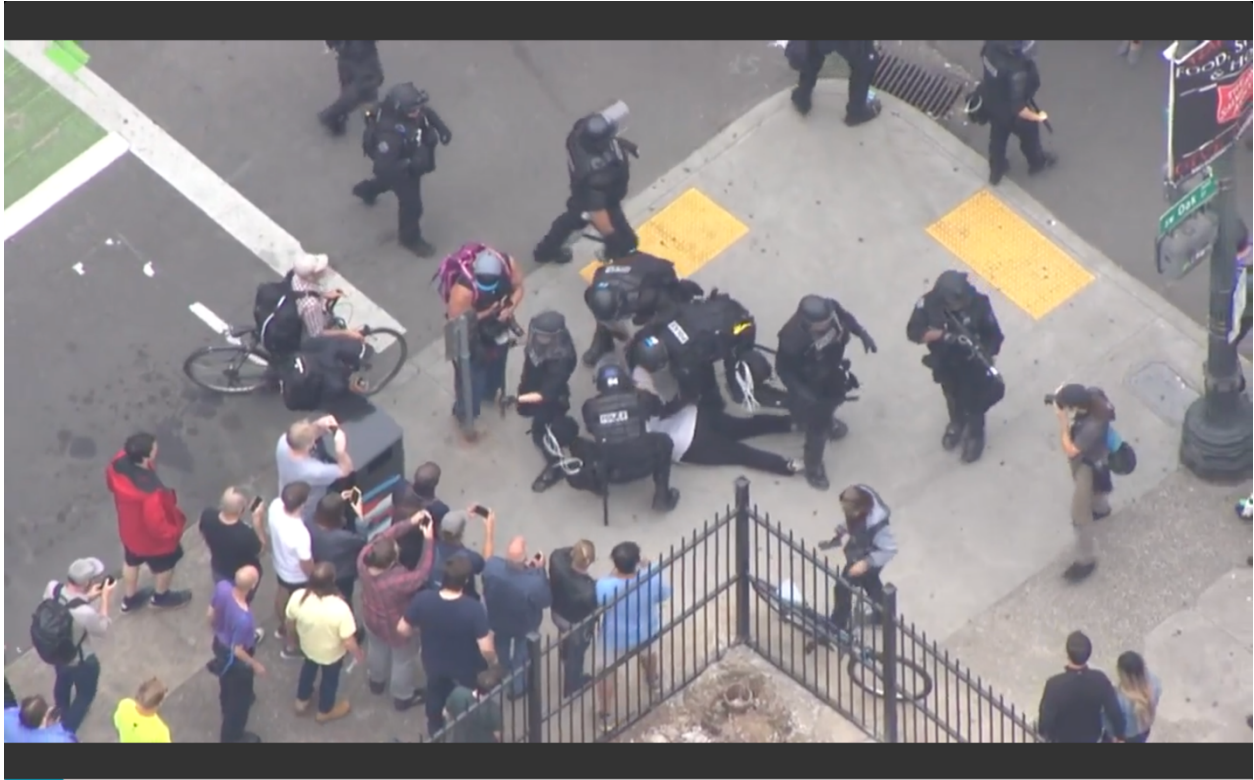


Figure 2. Dancing demonstrator getting arrested.²⁰

¹⁹ This synchronized video was created for the purpose of this litigation, available at <https://youtu.be/DkhEgHu1BRI>. It is a combination of three sources: Fox 12 Staff, *Portland demonstrations declared a ‘civil disturbance,’ police make multiple arrests*, Fox 12 Oregon (August 17, 2019) (Helicopter angle), available at https://www.kptv.com/news/portland-demonstrations-declared-a-civil-disturbance-police-make-multiple-arrests/article_19eea86c-c11d-11e9-967f-ef34795aed80.html; Stumptown Matters, *August 17th 2019 Portland Protest - Part 11*, YouTube (August 19, 2021) (Street level angle from northeast corner of SW Oak St. and SW 3rd Ave.) available at https://youtu.be/szAIw_gipvI; Ri the Recovering Lever Presser (@QueerFlatSoda), Twitter (August 17, 2019, 8:52 pm) (Street level angle from northwest corner of intersection), available at <https://twitter.com/QueerFlatSoda/status/1162935241582841857>.

²⁰ Fox 12 Staff, *Portland demonstrations declared a ‘civil disturbance,’ police make multiple arrests*, Fox 12 Oregon (August 17, 2019) (Helicopter angle), available at https://www.kptv.com/news/portland-demonstrations-declared-a-civil-disturbance-police-make-multiple-arrests/article_19eea86c-c11d-11e9-967f-ef34795aed80.html.

35. Ms. Ahern was stuck on the northeast street corner of SW Oak St. and SW 3rd Ave. with along with a crowd watching police officers violently arrest a person for doing no-more than exercise her free speech rights. Knowing the dangers of what happens to people in police custody, she also wanted to document this violent arrest. *See* Figure 3.

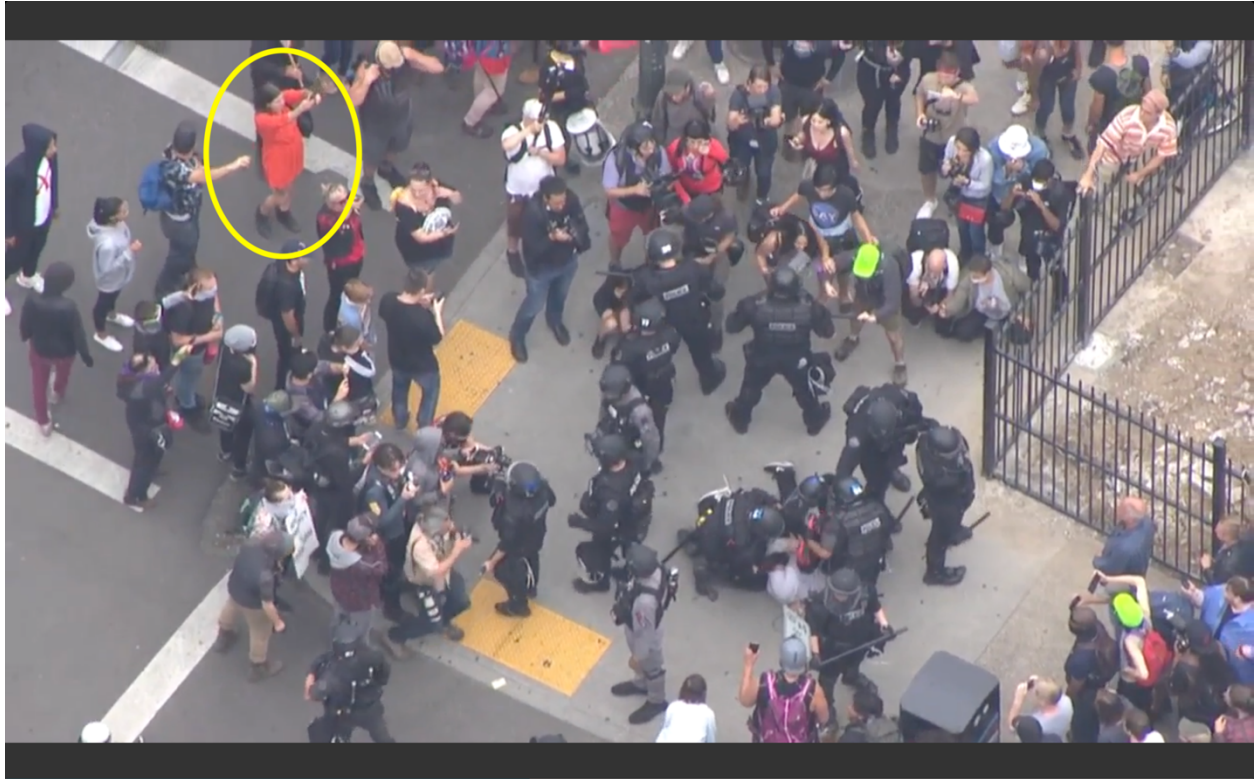
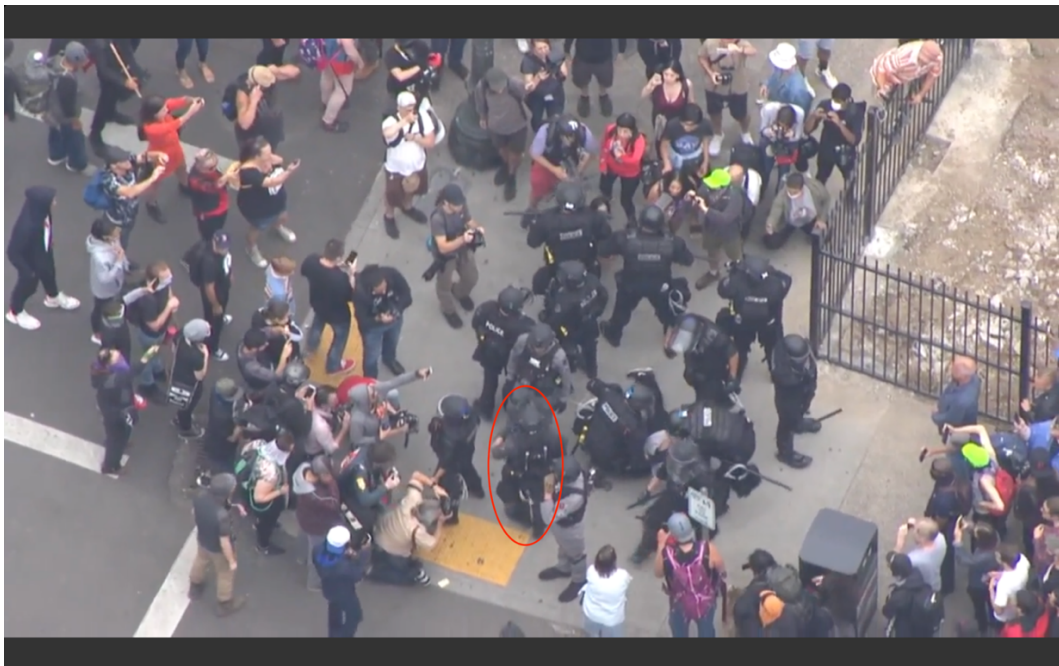


Figure 3. Ms. Ahern, circled in yellow, documenting the arrest.²¹

36. Defendant Kammerer, a detective with the Portland Police Bureau, was assigned to the Rapid Response Team (RRT), also more commonly known as the riot police. He too was on the northeast corner of SW Oak St. and SW 3rd Ave. *See* Figures 4 and 5. He wore a helmet with the number 67 on it.

²¹ *Id.*

37. Defendant Kammerer has a history of violence and unconstitutional force against people involved and around protests both before and after this action.²² Defendant Kammerer also uses his position as a homicide detective to testify on behalf of officers accused of murder. A notable example of this was the case of Andrew Hearst killing Quanice Hayes, where before a grand jury Defendant Kammerer created a fantastical justification for that officer's alleged belief that Mr. Hayes posed a danger to Mr. Hearst when he reached for his waistband.²³ Mr. Hayes was merely following the officers' orders to get onto the ground. Mr. Hearst shot Mr. Hayes in the head with his AR-15, killing him. The grand jury did not indict Mr. Hearst. The City settled Mr. Hayes's subsequent civil suit for \$2.1 million.²⁴



²² Latisha Jensen, *Witnesses and Photos Confirm the Identity of an Aggressive Officer Wearing Helmet Number 67*, Willamette Week (November 4, 2020), available at <https://www.wweek.com/news/2020/11/04/witnesses-and-photos-confirm-the-identity-of-an-aggressive-officer-wearing-helmet-number-67/>.

²³ Leah Sottile (@Leah_Sottile), Twitter (November 6, 2020, 1:11 pm), available at https://twitter.com/Leah_Sottile/status/1324821664379465734.

²⁴ Rebecca Ellis, *Portland approves \$2.1M wrongful death settlement in police killing of Quanice Hayes*, Oregon Public Broadcasting (March 10, 2021), available at <https://www.opb.org/article/2021/03/11/portland-settlement-police-killing-quanice-hayes/>.

Figure 4. Defendant Kammerer, circled in red on the northeast corner of the intersection in question.²⁵

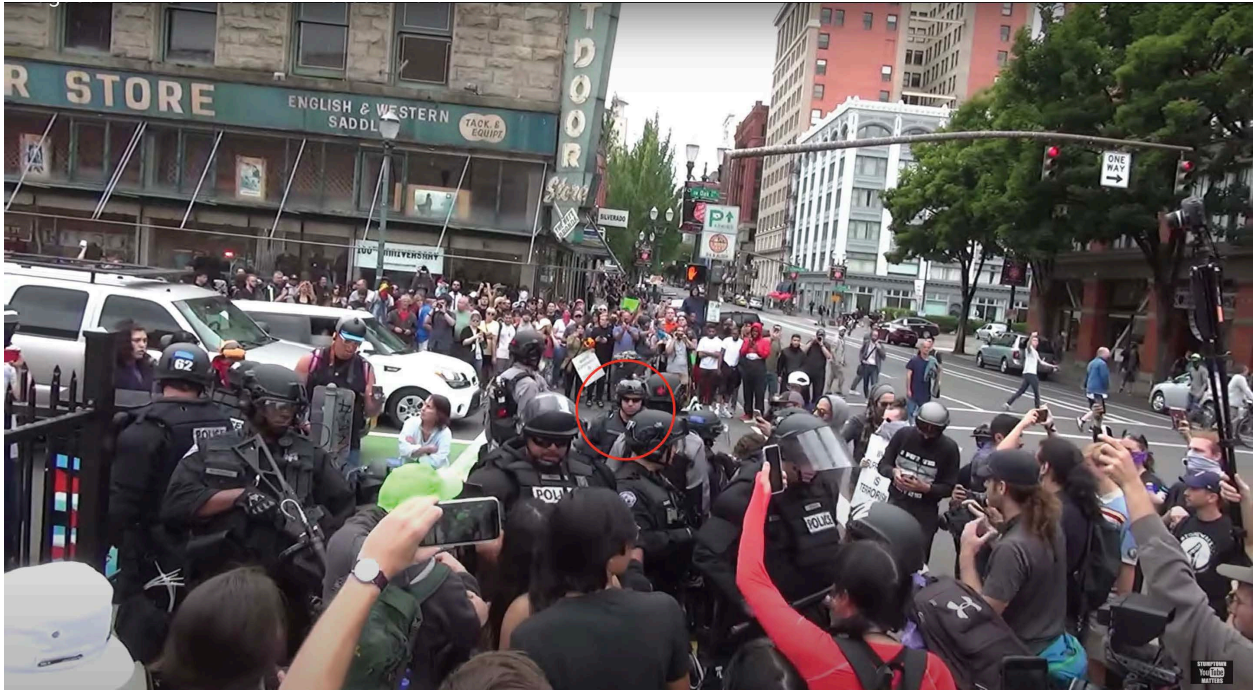


Figure 5. Defendant Kammerer, circled in red on the northeast corner of the intersection in question.²⁶

38. After she witnessed the dancer's arrest, two officers approached Ms. Ahern, directing her to cross SW 3rd westbound against the stop light. As he wrote in his police report, Defendant Kammerer observed this interaction. *See* Figure 6.

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²⁵ Fox 12 Staff, *Portland demonstrations declared a 'civil disturbance,' police make multiple arrests*, Fox 12 Oregon (August 17, 2019) (Helicopter angle), available at https://www.kptv.com/news/portland-demonstrations-declared-a-civil-disturbance-police-make-multiple-arrests/article_19eea86c-c11d-11e9-967f-ef34795aed80.html.

²⁶ Stumptown Matters, *August 17th 2019 Portland Protest - Part 11*, YouTube (August 19, 2021) (Street level angle from northeast corner of SW Oak St. and SW 3rd Ave.) available at https://youtu.be/szAIw_gipvI.



Figure 6. Ms. Ahern interacting with the officers, circled in yellow. Defendant Kammerer walking in the direction of Ms. Ahern, circled in red.²⁷

39. Ms. Ahern followed the directions of the two officers and began to cross SW 3rd Ave. When the PPB officers directed her to cross the street, traffic had been moving southward on SW 3rd Ave. To avoid traffic, Ms. Ahern stopped walking and flagged several cars to pass her by. When she entered the street, she saw a police truck enter the middle of the intersection. The officers were clad in riot gear: dark black helmets and pads, carrying weapons. Based on what she had witnessed—the police arresting a peaceful protester nowhere near the fascist provocateurs who had hijacked the City—Ms. Ahern was displeased at the sight of the officers now arriving in gear only suitable for a battlefield. *See* Figure 7.

²⁷ Fox 12 Staff, *Portland demonstrations declared a 'civil disturbance,' police make multiple arrests*, Fox 12 Oregon (August 17, 2019) (Helicopter angle), available at https://www.kptv.com/news/portland-demonstrations-declared-a-civil-disturbance-police-make-multiple-arrests/article_19eea86c-c11d-11e9-967f-ef34795aed80.html.

40. Ms. Ahern spat in the direction of, but nowhere near, the officers arriving on the riot truck.²⁸

41. Defendant Kammerer saw Ms. Ahern cross the street, saw that she did not cause a truck to stop suddenly, and saw her spit in the direction of the approaching riot van.



Figure 7. Ms. Ahern in the foreground, moments before spitting. Defendant Kammerer observing Ms. Ahern, circled in red, unconcerned about the truck behind her.

42. Only after she spat, Defendant Kammerer pointed Ms. Ahern out to an approaching line of bicycle officers. *See* Figures 8 and 9.

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²⁸ Ri the Recovering Lever Presser (@QueerFlatSoda), Twitter (August 17, 2019, 8:52 pm) (Street level angle from northwest corner of intersection), available at <https://twitter.com/QueerFlatSoda/status/1162935241582841857>.



Figure 8. Ms. Ahern in the foreground, a moment after spitting. Defendant Kammerer, having observed the spitting, singling out Ms. Ahern for arrest.²⁹

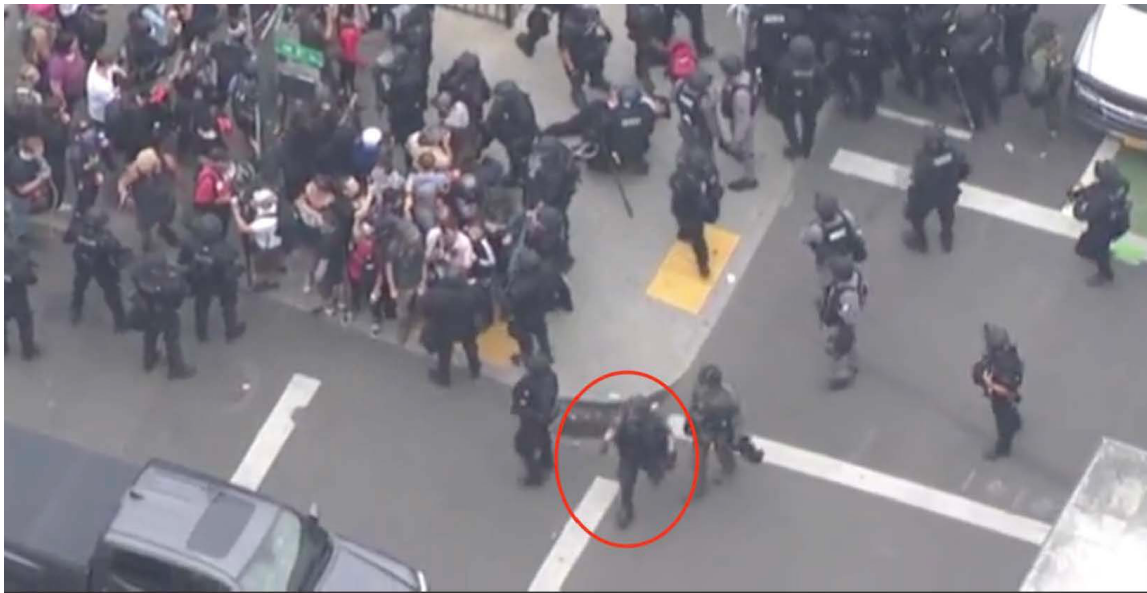


Figure 9. Defendant Kammerer, circled in red, pointing out Ms. Ahern after spitting.³⁰

²⁹ *Id.*

³⁰ Fox 12 Staff, *Portland demonstrations declared a 'civil disturbance,' police make multiple arrests*, Fox 12 Oregon (August 17, 2019) (Helicopter angle), available at <https://www.kptv.com/news/portland->

45. Defendant Kammerer's alleged probable cause became the basis of a state prosecution against Ms. Ahern. *State v. Ahern*, Multnomah County Circuit Court Case No. 19CR58661. The State initiated this case on or about September 5, 2019.

[demonstrations-declared-a-civil-disturbance-police-make-multiple-arrests/article_19eea86c-c11d-11e9-967f-cf34795aed80.html](https://www.bbc.com/news/health-56107221).

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evidence of injuries is also probative of Defendants' use of criminal prosecutions to avoid civil liability.

47. The State dismissed its case against Ms. Ahern on March 11, 2020.

48. Ms. Ahern suffered physical and emotional harm when she was violently arrested by the PPB bicycle officers. Due to the State's prosecution, Ms. Ahern had to attend court hearings and prepare her defense, taking time away from her schooling and work.

49. To date, upon information and belief, Defendant Kammerer has remained on the Portland police force, having not been disciplined for his conduct against Ms. Ahern or anyone else. Defendant Kammerer has gone on to injure and harm more people during the 2020 Uprising for Black Lives following the murder of George Floyd.

50. Subsequent reporting after August 17, 2019 shows that the City has maintained inadequate supervisory review and disciplinary system, like the Police Review Board, that often exonerates officers of allegations of internal policy violations.³²

Claim 1: Fourth Amendment – Unlawful Seizure – Individual Liability

(42 U.S.C. § 1983)

51. Plaintiff re-alleges and incorporates Paragraphs 1 through 54.

52. It is clearly established law that an officer may not seize a person, without reasonable suspicion to detain the person, or probable cause or a warrant to arrest them.

53. In taking the actions described above, including but not limited to purposefully directing PPB officers to detain and arrest Ms. Ahern without either reasonable suspicion or probable

³² Maxine Berstein, *Feds put city of Portland on formal notice of non-compliance with police use-of-force agreement*, The Oregonian (April 6, 2021), available at <https://www.oregonlive.com/crime/2021/04/feds-put-city-of-portland-on-formal-notice-of-non-compliance-with-justice-dept-settlement-agreement.html>.

cause, Defendant Kammerer intentionally violated Ms. Ahern's right to be free from unlawful seizures, guaranteed by the Fourth Amendment to the United States Constitution.

54. The actions of Defendant Kammerer, as described in this complaint, were embarked upon with the knowledge of, or in conscious disregard of, the harm that would be inflicted upon Ms. Ahern. As a result of said intentional conduct, Ms. Ahern is entitled to punitive damages against Defendant Kammerer, in his individual capacity, in an amount sufficient to punish him and to deter others from like conduct.

55. The unreasonable seizure of Ms. Ahern was the direct and proximate cause of her bodily injury, pain, suffering, loss of liberty, mental and emotional suffering, worry, fear, anguish, and shock. Ms. Ahern is entitled to all of her damages in an amount to be ascertained according to proof at trial.

**Claim 2: Fourth Amendment – Unlawful Pattern and Practice – Municipal Liability
(42 U.S.C. § 1983)**

56. Ms. Ahern restates and incorporates here the allegations in paragraphs 1 through 54.

57. As described in Claim 1, Defendant Kammerer violated Ms. Ahern's constitutional right to be free from unlawful seizures.

58. Defendant Kammerer's conduct is illustrative of a pattern and practice of PPB officers violating the Fourth Amendment rights individuals at protest demonstrations countering white supremacist groups and/or police misconduct.

59. Defendant City of Portland does not have adequate supervisory review of incidents where officers use force that would correct patterns of unlawful actions by PPB officers in a timely or effective fashion, and rarely categorizes such unlawful seizures as out of policy even when the force is clearly excessive or when the arrest was without sufficient legal justification. Defendant Kammerer received no training or discipline for violating the U.S. Constitution, as evidenced by

the absence of consequences for his repeated violations. Defendant City of Portland has effectively condoned this practice by repeatedly failing to correct constitutional violations by officers throughout the PPB.

60. Defendants City of Portland and John Does 1-5 failed to train and discipline its officers, including Defendant Kammerer, to follow the protections against these types of police and government repression and retaliation that have been recognized under the U.S. Constitution, as described above. As a result, Defendant Kammerer engaged in unconstitutional conduct that resulted in harm to Ms. Ahern.

61. The unreasonable seizure of Ms. Ahern was the direct and proximate cause her bodily injury, pain, suffering, loss of liberty, mental and emotional suffering, worry, fear, anguish, and shock. Ms. Ahern is entitled to all of her damages in an amount to be ascertained according to proof at trial.

Claim 3: 14th Amendment – Due Process, Fabrication of Evidence – Individual Liability
(42 U.S.C. § 1983)

62. Plaintiff realleges paragraphs 1 through 54.

63. The Due Process clause of the Fourteenth Amendment protects persons from being subjected to criminal charges on the basis of false evidence that was deliberately fabricated.

64. Defendant Kammerer deliberately fabricated evidence that was used to criminally charge Ms. Ahern, or at minimum he was deliberately indifferent to Ms. Ahern's innocence and the results of his investigation were used to criminally charge Ms. Ahern.

65. Because of his conduct, Defendant Kammerer violated Ms. Ahern's clearly established due process rights.

66. The actions of Defendant Kammerer, as described in this complaint, were embarked upon with the knowledge of, or in conscious disregard of, the harm that would be inflicted upon Ms. Ahern. As a result of said intentional conduct, Ms. Ahern is entitled to punitive damages against Defendant Kammerer, in his individual capacity, in an amount sufficient to punish him and to deter others from like conduct.

67. This violation of Ms. Ahern's due process rights was the direct and proximate cause of her bodily injury, pain, suffering, loss of liberty, mental and emotional suffering, worry, fear, anguish, and shock. Ms. Ahern is entitled to all of her damages in an amount to be ascertained according to proof at trial.

Claim 4: First Amendment — Unlawful Retaliation Against Speech — Individual Liability
(42 U.S.C. § 1983)

68. Plaintiff realleges paragraphs 1 through 54.

69. As described above, Defendant Kammerer targeted Ms. Ahern for arrest not because he had probable cause, but because he took offense to Ms. Ahern spitting in the general direction of riot officers and because he perceived her to be a member of the counter-demonstration against the Proud Boys.

70. The First Amendment protects persons from unlawful curtailment of expressive conduct, assembly, and associations with one another.

71. Defendant Kammerer's retaliatory motive was the but-for cause of Ms. Ahern's injuries. By having Ms. Ahern arrested, Defendant Kammerer chilled Ms. Ahern's political speech, violating her First Amendment rights.

72. This retaliation was the direct and proximate cause of Ms. Ahern's bodily injury, pain, suffering, loss of liberty, mental and emotional suffering, worry, fear, anguish, and shock. Ms. Ahern is entitled to all of her damages in an amount to be ascertained according to proof at trial.

Claim 5: First Amendment – Unlawful Pattern and Practice – Municipal Liability

(42 U.S.C. § 1983)

73. Ms. Ahern restates and incorporates here the allegations in paragraphs 1 through 54.

74. As explained in Claim 4, Defendant Kammerer violated Ms. Ahern's constitutional speech rights.

75. Defendant Kammerer's conduct, and the conduct alleged in paragraphs 19 to 36 and 53 to 54, is illustrative of a pattern and practice of PPB officers violating the First Amendment rights of individuals at protest demonstrations countering white supremacist groups and/or police misconduct. Defendant City of Portland has a custom and practice of using militarized force against left-wing or antifascist protestors. Defendants' past Fourth and First Amendment violations were intended to punish a group of protestors *en masse* for their political speech. Defendant City of Portland does not use such tactics against right-wing protestors or fascist protestors, such as the Proud Boys or Patriot Prayer, despite their disobedience of officers' orders and clear intent to terrorize the community of Portlanders.

76. As a supervisor of a RRT group, Defendant Kammerer is sufficiently senior so that his decision can fairly be said to be the official policy of the City of Portland.

77. This retaliation was the direct and proximate cause of Ms. Ahern's bodily injury, pain, suffering, loss of liberty, mental and emotional suffering, worry, fear, anguish, and shock. Ms. Ahern is entitled to all of her damages in an amount to be ascertained according to proof at trial.

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Claim 6: State Tort

Count 1: False Arrest

78. Plaintiff realleges paragraphs 1 through 54.

79. As described above, Defendant City intentionally and unlawfully restrained Ms. Ahern's freedom of movement, causing her arrest and subsequent harm.

80. This intentional conduct was the direct and proximate cause of Ms. Ahern's bodily injury, pain, suffering, loss of liberty, mental and emotional suffering, worry, fear, anguish, and shock. Ms. Ahern is entitled to all of her damages in an amount to be ascertained according to proof at trial.

Count 2: Battery

81. Plaintiff realleges paragraphs 1 to 54.

82. As described above, agents of the Defendant City of Portland did unlawfully intend to come into physical contact with Plaintiff, and did come into contact with Plaintiff. Defendant City's unlawful and intentional contact with Plaintiff was offensive.

83. This intentional conduct was the direct and proximate cause of Ms. Ahern's bodily injury, pain, suffering, loss of liberty, mental and emotional suffering, worry, fear, anguish, and shock. Ms. Ahern is entitled to all of her damages in an amount to be ascertained according to proof at trial.

REASONABLE ATTORNEY'S FEES AND COSTS

84. 42 U.S.C. § 1988(b) allows "the prevailing party... a reasonable attorney's fee as part of the costs..." in an action brought under 42 U.S.C. § 1983.

85. Plaintiff requests that the Court grant a reasonable attorney's fee in this action.

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CONCLUSION

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. For economic and non-economic damages in an amount to be determined at trial;
- B. For reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1988; and
- C. Such other relief as the court deems just and proper.

DATE: August 26, 2022.

/s/ Juan C. Chavez

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